

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

| | | |
|--|---|----------------------|
| In the Matter of |) | |
| Connect America Fund |) | WC Docket No. 10-90 |
| Universal Service Reform - Mobility Fund |) | WT Docket No. 10-208 |
| Comment Sought on Mobility Fund Phase II Challenge Process Procedures and Technical Implementation |) | |

To: The Commission

COMMENTS OF ATN INTERNATIONAL, INC.

ATN International, Inc., (“ATN”) on behalf of itself and its subsidiaries Choice Communications, LLC, NTUA Wireless, LLC, Vitelcom Cellular, Inc. (d/b/a Viya Wireless) and Commnet Wireless, LLC (“ATN”) submit these comments in response to the Commission’s Public Notice regarding the procedures for the Mobility Fund Phase II (“MF-II”) special data collection and challenge process.¹ As discussed in more detail below, the Public Notice’s proposals are generally sound, but the Commission must reduce the number of measurements that are required to mount a successful challenge in order to avoid prohibitive burdens on challenge process participation, especially for smaller carriers.

Throughout this proceeding, ATN has urged the Commission to move forward expeditiously with the MF-II auction, and thus appreciates the importance of avoiding frivolous challenges and allowing for automated validation of challenge submissions. At the same time, it is important that the challenge process provide a meaningful opportunity for carriers to challenge the coverage information provided in the special data collection where that information is

¹ *Comment Sought on Mobility Fund Phase II Challenge Process Procedures and Technical Implementation*, Public Notice, DA 17-1027 (rel. Oct. 18, 2017) (“Public Notice”).

inaccurate. The burdens of submitting such challenges must be manageable for small carriers as well as large ones, as the Commission has recognized.²

In most respects, ATN believes that the Public Notice’s proposal fulfills the Commission’s mandate to design a challenge process that is consistent with the Commission decisions to date and with the Commission’s objective to establish a challenge process that is both efficient and open.³ There is one element of the proposal, however, that must be changed in order to avoid precluding meaningful participation in the challenge process, particularly by smaller carriers. Specifically, the proposal that the process would be based on a grid of one-kilometer squares, and that each measurement will be represented by a circle with a radius of only one-quarter of one kilometer.⁴ This proposal will require challengers to obtain an excessive number of measurements in order to mount successful challenges, making participation in the challenge process cost- and time-prohibitive, particularly for small carriers.

In the Public Notice, the Commission indicates that it “anticipate[s] that using a value of one-half of one kilometer as part of the validation process would help ensure the accuracy of the submitted speed test data while balancing the burden on small carriers.”⁵ However, , the proposal does not achieve this balance. Under the proposal, “[f]or each of these [one-kilometer] grid cells, the system would apply a buffer (i.e., draw a circle of fixed size) with a radius of one-quarter of one kilometer ... to each counted speed test and determine the total portion of this

² See, e.g., Public Notice at ¶¶ 11, 33.

³ *Connect America Fund; Universal Service Reform – Mobility Fund*, Order on Reconsideration and Second Report and Order, 32 FCC Rcd 6282, 6304 ¶ 44 (2017) (“*MF-II Reconsideration Order*”).

⁴ Public Notice at ¶¶ 18-21.

⁵ Public Notice at ¶ 11. See also *id.* at ¶ 33 (“The proposals in this Public Notice are designed to ... minimize the burden on small business challengers....”).

buffered area that overlaps with the coverage map of the challenged provider.”⁶ Challengers would have to submit enough measurements so that the buffer circles surrounding their tests cover at least 75 percent of challengeable area in the one-kilometer grids.⁷

Because the area of a circle with a radius of one-quarter kilometer is less than 20 percent of a square kilometer,⁸ challengers would be required to obtain at least four measurements per square kilometer grid cell in order to reach the 75 percent coverage threshold for a successful challenge. Obtaining four measurements per kilometer would not have been particularly difficult if the Commission had adopted road miles as the coverage unit in MF-II, but the Commission instead adopted as its coverage unit *square miles of land area*⁹ – irrespective of whether those square miles are served by roads or accessible to the public. As a result, under the Public Notice’s proposal, challenge process participants are likely to have to take measurements using much more costly and time-consuming procedures such as sending personnel on foot into areas that are nowhere near a public road. Having to perform at least four such tests for every square kilometer challenged would create an insurmountable burden for many potential challengers – particularly smaller carriers with more limited resources.

One solution to this problem would be to allow challengers to take their measurements along the boundaries of the census block or census tract being challenged. Because the boundaries of census blocks and census tracts are often roads, this would facilitate parties’ ability

⁶ *Id.* at ¶ 20.

⁷ *Id.* at 21.

⁸ Where $A = (\pi)r^2$, and $r = 0.25$ km, $A = 0.1963$ km².

⁹ *Connect America Fund; Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 2152, 2168-69 ¶ 41 (2017) (“*MF-II Order*”).

to take measurements without creating undue burdens from having to gain access to large areas that are not vehicle-accessible.¹⁰ Under this approach, a challenge would be granted if a certain percentage of measurements (such as 75 percent) taken from the boundaries of the census block or census tract being challenged showed a lack of qualifying 4G LTE coverage at 5 Mbps download or better.

Alternatively, if the Commission wishes to retain its proposal to use a grid to evaluate challenge submissions, the Commission should reduce the burden by using a larger grid and a larger buffer radius. The Commission has already decided that the maximum distance between measurements could be up to one mile.¹¹ Hence, a requirement to obtain signal readings from at least four points for each one-square-kilometer grid is excessive and unnecessary. The Commission could alternatively use a one-mile grid, and apply buffer circles around challenge measurements with a radius of one-half mile. Although this approach would not eliminate challengers' obligation to perform tests in areas that are not vehicle-accessible, it would at least reduce this burden to a more manageable level – particularly for smaller carriers. At the same time, this approach also would allow the Commission to use the same framework for processing challenges as proposed in the Public Notice.

In sum, the Commission's proposals for the data collection and challenge process are sound, provided that the Commission revises the required locations for taking challenge measurements to avoid prohibitive and unnecessary burdens on challengers, particularly smaller carriers. In order to avoid further delays to the MF-II auction, ATN urges the Commission to

¹⁰ This approach would be particularly useful on National Parks for Federal Lands to isolate areas that are actually traveled by people.

¹¹ *MF-II Reconsideration Order*, 32 FCC Rcd at 6309 ¶ 51.

adopt the procedures for the data collection without delay so that carrier data can be collected by January 4, 2018, as currently scheduled.

Respectfully submitted,

ATN International, Inc.

By: _____ /s/

Douglas J. Minster
Vice President, Government and Regulatory Affairs
500 Cummings Center
Suite 2450
Beverly, MA 01915
(978) 619-1303

November 8, 2017